

Remarks

Claims 1-2 are pending in the subject application. By this amendment, claim 1 is amended. Upon entry of this amendment, claims 1-2 will remain pending before the Examiner. Favorable consideration of the pending claims is respectfully requested.

Claim 1 has been amended to remove the unnecessary phrase "with uniform thickness" from "forming a first oxide layer" and "forming a nitride layer". No new matter has been introduced by this amendment.

Claim 1 is rejected under 35 U.S.C. §103(a) as being unpatentable over Huang-Lu *et al.* (U.S. Pat. App. No. 2001/0044191) in view of Pfiester (U.S. Patent No. 5,264,380). The Office Action acknowledges that Huang-Lu *et al.* fails to teach forming a first oxide layer on the substrate including the gate electrode, but indicates that it would have been obvious to combine the oxide layer of Pfiester with the method of Huang-Lu *et al.* because a transistor can be created having a reduced series resistance and a reduced peak lateral electrical field. Applicant respectfully traverses this rejection, noting that if the cited references are combined as suggested in the Office Action, the claimed invention would not result. Pfiester teaches forming a first oxide layer on the substrate, including the gate electrode, but uses Cesium doping of the oxide layer to reduce the series resistance of the transistor. Pfiester teaches that this Cesium-doped oxide layer remains on the substrate of the finished transistor. In contrast, claim 1 explicitly states that the first oxide layer is removed from the surface of the substrate. Accordingly, if one of ordinary skill in the art combined the cited references as suggested in the Office Action and applied a first oxide layer according to the teachings of Pfiester, one would not subsequently remove that layer from the surface of the substrate. Therefore, the claimed invention is not suggested by the references. To support an obviousness rejection, one must find both the suggestion, and the expectation of success in the prior art. See *In re Dow Chemical Co.*, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988). There is no suggestion in the primary reference, Huang-Lu *et al.*, to form a first oxide layer over the substrate including the gate electrode. If one argues that the secondary reference, Pfiester, provides motivation to form the oxide layer, then one has no motivation to subsequently remove the oxide layer from the surface of the substrate as is required by the method of claim 1. Because the cited references, alone or in combination, do not suggest the method of claim 1, they do not support an obviousness rejection. Reconsideration and withdrawal of this rejection is respectfully requested.

JASUNDA128T\PTO\Response to oa.dodgyl/sjk

Claim 2 is rejected under 35 U.S.C. §103(a) as being unpatentable over Huang-Lu *et al.* (U.S. Pat. App. No. 2001/0044191) in view of Pfiester (U.S. Patent No. 5,264,380) and further in view of Xiang *et al.* (U.S. Patent No. 6,555,439). Applicant respectfully traverses. As explained above, Huang-Lu does not disclose "forming a first oxide layer on the substrate including the gate electrode" and "forming a nitride layer on the first oxide layer." For reasons set forth above, Pfiester fails to cure this deficiency. The tertiary reference, Xiang *et al.*, also fails to cure the deficiencies of these references. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

In view of the foregoing, Applicant believes that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 or 1.17 as required by this paper to Deposit Account 19-0065.

The applicant invites the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



Jeff Lloyd
Patent Attorney

Registration No. 35,589

Phone No.: 352-375-8100

Fax No.: 352-372-5800

Address: Saliwanchik, Lloyd & Saliwanchik
A Professional Association
P.O. Box 142950
Gainesville, FL 32614-2950

JL/ amh